

FINAL STATEMENT OF REASONS:

The California Department of Corrections proposes amendments to Section 3075.2 (d) of Title 15 of the California Code of Regulations to clarify provisions regarding funds provided by the Department to inmates who are released from prison or from a civil addict commitment.

The lack of specific language clarifying the funds intended purpose has created the misperception that these sums allocated as release funds are intended as “payment” for being released from prison. A releasee/parolee may be picked up and placed in custody in another jurisdiction because of an outstanding warrant, or returned to custody for a new offense, before receiving any or all of the designated release funds. Because of unclear language, affected persons believe they are entitled to receive these funds in jail or prison and use them to buy canteen items or pay for procurable services, such as postage or legal copying. These proposed changes are necessary to ensure effective and appropriate use of these State resources that are intended for the rehabilitative purpose of assisting the releasee/parolee’s reintegration back into community living.

Many inmates are paroled to a community where resources to help them make a new start are insufficient, not obtainable immediately, or simply unavailable. Inmates’ family and social ties in the community may have been severed by the physical separation and social stigma of imprisonment. The releasee/parolee needs these funds for food, temporary housing, transportation and other basic necessities. Even those who will have the immediate support of family or friends and/or have a job lined up upon release will need funds to pay for initial living/work-related expenses.

The Department has determined that no alternative considered would be more effective in carrying out the purpose of this action or would be as effective and less burdensome to affected private persons than the action proposed.

Subsection 3075(d) is amended to explain the intent of release funds, which is to help the incarcerated person reintegrate into the community as a prison parolee or as a civil addict commitment releasee. This is necessary to ensure that the purpose for these funds and the intent of the regulation are clearly understood.

Subsection 3075(d)(1) is amended to clarify the provision that prohibits an inmate released to the custody of the United States Immigration and Naturalization Service from receiving release funds. This is necessary to prevent inappropriate use of the funds.

New Subsection 3075(d)(2) is proposed to add the provision that funds will not be paid to a parolee/releasee released to local custody or to a parolee subsequently placed in custody in any jurisdiction within the state of California. Inmates of prisons or jails are not required to pay for their own subsistence and are not in the community. This change is necessary to prevent inappropriate use of State funds.

Subsections 3075.2(d)(2) and (3) are renumbered to 3075.2(d)(3) and (4).

Existing Subsection 3075.2(d)(4) is repealed. This language was incorporated into new Subsection 3075.2(d)(2). This deletion is necessary to prevent duplication.

Subsections 3075.2(d)(5) and (6) are unchanged.

New Subsection 3075.2(d)(7) is added to ensure that inmates or parole violators who are returned to custody and subsequently released to the jurisdiction of the Department of Mental Health, will not receive release funds until they are actually in the community. This is necessary to prevent inappropriate use of the funds and ensure their availability when needed for living expenses.

Subsection 3075.2(e) is unchanged.

ASSESSMENTS, MANDATES AND FISCAL IMPACT:

This action will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

The Department determines this action imposes no mandates on local agencies or school districts; no fiscal impact on State or local government, or Federal funding to the State, or private persons. It is also determined that this action does not affect small businesses nor have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states, because they are not affected by the internal management of State prisons; or on housing costs; and no costs or reimbursements to any local agency or school district within the meaning of Government Code Section 17561.

DETERMINATION:

The Department has determined that no alternative considered would be more effective in carrying out the purpose of this action or would be as effective and less burdensome to affected persons.

PUBLIC COMMENTS:

Public Hearing: Held September 9, 2002 at 9:00 a.m.

One person attended the public hearing. No oral comments were received.

Summaries and Responses to Written Comments:

Commenter #1:

Comment A: Commenter contends that the cost that is deducted from the release allowance to transport the released inmate to a nearby city is fair, but from certain institutions such as High Desert State Prison, the cost is higher which leaves less money for the released inmate.

Accommodation: None

Response A: The Department contends that the regulations clearly state that the cost of clothing and public transportation provided by the facility in connection with the release of the inmate, shall be deducted from the release allowance. The inmate has the option to arrange for his/her own transportation.

In the event the transportation has to be arranged by the institution, the cost is kept to the lowest amount possible.

Comment B: Commenter contends that the amount of the release fund is not sufficient enough to allow the released inmate enough money to pay for food, lodging, clothing, and the search for a job.

Accommodation: None

Response B: The Department contends that pursuant to Penal Code Section 2713.1, it is obligated and restricted to the amount of two hundred dollars (\$200). The intention and purpose of the release fund is to help provide temporary assistance to the inmate/parolee, while they obtain other financial help and resources (i.e., unemployment, general assistance, social security and/or disability benefits.) Prior to release and to help with the transition back into the community, each inmate has the option to enroll in “pre-release” classes. These classes outline and teach important information, which help the inmate find financial aid, housing, food, employment, and establish connections to vital services and resources in the community. Along with the “pre-release classes” that are available, a “Parole Information Handbook” is given to each inmate/parolee. The handbook outlines the important information that will help assist the inmate/parolee through the process of release and parole.

Comment C: Commenter contends that if the true purpose of the release allowance is rehabilitative, the amount of \$200 should be adjusted for inflation. A realistic allowance would allow released inmates a better start on the reintegration process.

Accommodation: None

Response C: See Commenter #1, Response B, above.

Commenter #2:

Comment A: Commenter contends that based on their understanding of the proposed text, inmates are to receive \$200 while in prison for items they may need. The commenter then asks for clarification if their understanding of the text is correct, that after six months, the inmate will receive an additional \$200 and every six months thereafter. Also upon release, the inmate will receive the \$200 release allowance.

Accommodation: None

Response A: The Department contends that these regulations do clarify and make specific that the release allowance shall only be provided to an inmate who is released from prison to the direct supervision of a parole agent in the community or is discharged from the jurisdiction of the Department. The regulations also make specific, that inmates with six months or more served on a sentence or parole violation shall be given \$200, less the costs of clothing and public transportation provided by the facility in connection with their release.

Commenter #3:

Comment A: Commenter contends that the new wording under Subsection 3075.2(d) does not take into account inmates who are released on bail or on their own recognizance pursuant to a court order or a Board of Prison Terms

order. Commenter believes these persons are also entitled to a release allowance.

Accommodation: None

Response A: The Department contends that the regulations clearly state that the release allowance shall only be provided to an inmate who is released from prison to the direct supervision of a parole agent in the community or is discharged from the jurisdiction of the Department. If an inmate does not meet this criteria, they will not receive the release allowance.

Comment B: Commenter contends that there is no rehabilitative purpose in the release allowance, and it is nothing more than a less than adequate sub-minimum “survival stipend,” and must be accurately stated as such.

Accommodation: None

Response B: See Commenter #1, Response B.

Comment C: Commenter contends that the new wording in Subsection 3075.2(d)(2), does not distinguish between a “local commitment” and a “prison commitment.” Commenter asks the question and wants it made clear, if the release allowance will be withheld when a local custody detainer or in fact even a federal custody detainer results in a new state or federal prison commitment.

Accommodation: None

Response C: The Department contends that Subsection 3075(d)(2), does in fact clarify and make specific, that inmates who are released to the custody of local law enforcement as a result of a detainer or hold, are ineligible to receive a release allowance until the inmate is released from custody to direct parole supervision in the community. The wording of the text clearly makes specific that if the local custody detainer or hold results in a new commitment, the inmate will be ineligible for the release funds for the prior prison term(s).

Response D: Commenter contends that the release allowance must be raised as the cost of living has increased substantially. The commenter gives the example of the maximum canteen draw that has increased 35 percent from \$140 to \$180 per year and states that the release allowance must be increased similarly from \$200 to \$270, \$1.10/day to \$1.50/day.

Accommodation: None

Response D: See Commenter #1, Response B.